

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07

FRB-03 INR-07 NSAE-00 CIEP-01 SP-02 STR-04 TRSE-00

LAB-04 SIL-01 SAM-01 OMB-01 DODE-00 PM-04 H-02 L-03

NSC-05 PA-01 PRS-01 SS-15 USIA-06 IO-10 ACDA-05 /102 W

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R 251248Z AUG 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 2361

USMISSION USBERLIN

INFO AMEMBASSY BERLIN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO BRUSSELS

USMISSION EC BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 13789

E.O. 11652: GDS

TAGS: PFOR, PGOV, WB, EC, GW, US, UK, FR, UR

SUBJECT: BERLIN AND THE EC: DRAFT BK/L ON EC

REGULATIONS AND TREATIES

REF: BONN 13788

1. FOLLOWING IS AN INFORMAL EMBASSY TRANSLATION OF THE
TEXT OF A DRAFT BK/L WHICH, AS DISCUSSED REFTEL, HAS
BEEN PROPOSED BY THE FRENCH BONN GROUP REPRESENTATIVE
FOR TRIPARTITE CONSIDERATION:

BEGIN TEXT:

EXTENSION OF EC TREATIES AND REGULATIONS TO BERLIN

THE AK, HAVING EXAMINED THE MODALITIES OF APPLICATION

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OF BK/L (57) 44, IS AGREED THAT THE PROVISIONS OF THE

THIRD PARAGRAPH OF THE BK/L, WHICH REMAIN IN FULL EFFECT AND FORCE, MUST BE INTERPRETED AS FOLLOWS:

I. THE EXPRESSION "EUROPEAN REGULATIONS" IS AIMED AT ALL THE ACTS TAKEN BY THE INSTITUTIONS OF THE COMMUNITY, NOTABLY, THE REGULATIONS, DIRECTIVES, AND DECISIONS TO WHICH REFERENCE IS MADE IN ARTICLE 189 OF THE TREATY OF MARCH 25, 1957, WHEN SUCH ACTS:

A) CONSTITUTE, WHATEVER MAY BE THE JUDICIAL FORM, MEASURES FOR THE APPLICATION OF PROVISION OF THE SAID TREATY TAKEN BY THE COMPETENT INSTITUTIONS OF THE COMMUNITY IN THE EXERCISE OF EXPRESSLY DELEGATED COMPETENCIES.

B) DO NOT HAVE THE EFFECT OF ANNULLING, SUSPENDING OR MODIFYING THE PROVISIONS OF THE TREATY OR OF SUPPLEMENTING OR INTERPRETING THE SAME TREATY.

C) ARE, BY THEIR NATURE, COMPARABLE TO REGULATIONS ENACTED IN THE APPLICATION OF FEDERAL LEGISLATION.

II. THE ACTS OF THE INSTITUTIONS OF THE COMMUNITY WHICH DO NOT FULFILL THE CONDITIONS SET FORTH IN PARAGRAPH I ABOVE, AND, NOTABLY, THE REGULATIONS WHICH THE COUNCIL TAKE IN VIRTUE OF ARTICLE 235 OF THE TREATY, WILL BE SUBMITTED TO THE PROCEDURES DESCRIBED BELOW.

A) THE FRG WILL INFORM THE SENAT OF EVERY PLAN FOR REGULATIONS OF THIS NATURE. THE SENAT WILL IN TURN INFORM THE AK OF IT WITHOUT DELAY.

B) THE SENAT WILL NOTIFY THE AK, IF POSSIBLE BEFORE, IF NOT IMMEDIATELY AFTER, THEIR PROMULGATION BY THE COMPETENT INSTANCES OF THE EC, OF REGULATIONS OF THIS NATURE. AT THE MOMENT OF NOTIFICATION, THE SENAT OF BERLIN WILL SEND TO THE AK 15 COPIES OF THE CORRESPONDING DOCUMENTS AND CALL THE ATTENTION OF THE AK TO THE CONFIDENTIAL

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PARTICULAR CHARACTER OF THESE REGULATIONS.

C) SUCH ACTS WILL NOT BE APPLIED TO BERLIN IF THE AK RAISES OBJECTIONS AGAINST THEM. THE AK WILL HAVE AT ITS DISPOSAL A DELAY OF 21 DAYS FROM THE NOTIFICATION BY THE SENAT OF THE PERTINENT TEXTS IN ORDER TO FORMULATE ITS OBJECTIONS. IN THE ABSENCE OF A DECISION TO THE CONTRARY BY

THE AK, BERLIN WILL NOT BE EXCLUDED FROM THE
APPLICATION OF THE REGULATION DURING THE DELAY
IN THE COURSE OF WHICH THE AK CAN EXPRESS ITS
OBJECTIONS.

III. THE AK CONFIRMS THAT IT DOES NOT OBJECT TO THE
SENAT PUTTING INTO EFFECT IN BERLIN THE AGREEMENTS
CONCLUDED BY THE COUNCIL OR THE COMMISSION FOR AND IN

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 13789

THE NAME OF THE COMMUNITY AND PURSUANT TO ARTICLES
113 (3) AND 228 OF THE TREATY OF MARCH 25, 1957, WITH
ONE OR SEVERAL STATES OR WITH AN INTERNATIONAL
ORGANIZATION.

THE FOLLOWING PROCEDURES WILL CONTINUE TO BE RESPECTED:

1) THE FEDERAL REPUBLIC WILL INFORM THE SENAT OF BERLIN OF ANY NEGOTIATION CONDUCTED BY THE INSTITUTIONS OF THE EC IN APPLICATION OF THE ARTICLES 113 AND 228 WITH A VIEW TO CONCLUDING SUCH AGREEMENTS.

2) THE FEDERAL REPUBLIC WILL DETERMINE WITH THE SENAT, THEN SUBMIT TO THE COMPETENT INSTI-
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TUTIONS OF THE EC, ALL PROPER MEASURES TO PROTECT THE PARTICULAR INTERESTS OF BERLIN.

3) THE SENAT OF BERLIN IS CHARGED WITH NOTIFY-
ING THE AK, IF POSSIBLE BEFORE IF NOT IMMEDIATELY AFTER THEIR SIGNING BY THE COMPETENT INSTITUTIONS OF THE EC, OF THE AGREEMENTS IN WHICH BERLIN OUGHT TO PARTICIPATE. AT THE TIME OF NOTIFICA-
TION, THE SENAT WILL SEND TO THE AK 15 COPIES OF THESE AGREEMENTS AS WELL AS, AS THE CASE MAY BE, THE OTHER PROTOCOLS OR DOCUMENTS ESTABLISHING THE PARTICIPATION OF BERLIN.

4) BERLIN WILL NOT BE INCLUDED IN THE AREA OF APPLICATION OF AN AGREEMENT IF THE AK RAISES OBJECTIONS AGAINST ITS PARTICIPATION IN THIS AGREEMENT. THE AK WILL HAVE AT ITS DISPOSAL A DELAY OF 21 DAYS FROM THE NOTIFICATION BY THE SENAT OF THE TEXT OF THE AGREEMENT IN ORDER TO FORMULATE ITS OBJECTIONS. ALWAYS, IN AGREEMENTS CONCERNING COMMERCE, PAYMENT OR ASSOCIATION, BERLIN WILL NOT BE EXCLUDED FROM THEIR APPLICATION DURING THE DELAY IN THE COURSE OF WHICH THE AK CAN EXPRESS ITS OBJECTIONS.

5) THE PARTICIPATION OF BERLIN IN THESE AGREE-
MENTS CAN BE ASSURED BY:

--THE MENTION OF THE NAME OF BERLIN IN
THESE AGREEMENTS.

--IN THE CASE OF AGREEMENTS ON COMMERCE,
PAYMENT, OR ASSOCIATION, BERLIN WILL
BE CONSIDERED AS A PARTICIPANT IN THE
AGREEMENT IF IT SPECIFIES THAT THE
ZONE OF APPLICATION OF IT IS THE ZONE
WHERE THE TREATY INSTITUTING THE EEC

IS APPLICABLE.

END TEXT.

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2. ACTION REQUESTED: USBER'S AND THE DEPARTMENT'S
VIEWS ON THE DESIRABILITY AND CONTENT OF SUCH A BK/L
WOULD BE APPRECIATED.

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